

IN THE FOURTH DISTRICT COURT OF THE STATE OF UTAH, IN  
AND FOR UTAH COUNTY.

*P-2*  
Provo Reservoir Company,  
a corporation

Plaintiff

vs.

D E M U R R E R

Provo City, et al.,  
corporations

Defendants

The defendant, Knight Woolen Mills, a corporation,  
demurs to the complaint of the plaintiff herein upon the follow-  
ing grounds:

First: That the complaint of the plaintiff herein  
does not state facts sufficient to constitute a cause of action  
against this defendant.

Second: That the complaint of the plaintiff is uncertain  
in this,--

(A) That paragraph numbered 27 of said complaint, alleges  
"That each and every year when the snow fall in the mountains at  
the several sources of the said river, is an average amount, and  
the precipitation on the water-shed of said river is an average  
precipitation, there is a surplus of water in said river during  
the high water period in May and June and until on or about the  
15th day of July, over and above all completed appropriations there-  
from," without stating the average snow-fall at the several sources  
of the said river nor the average precipitation on the water shed of  
said river, nor the amount of water that would constitute the  
completed appropriations from said river, and this defendant from  
said allegation of plaintiff's complaint does not know nor can  
not ascertain nor determine the amount of water that constitutes  
a surplussage nor the amount of water that constitutes the completed  
appropriations from said river.

(B) That paragraph numbered "29b" of said complaint is uncertain for the reason that plaintiff alleges therein that it is the owner of the waters of "Enoch Spring" and the "Little Springs" except one-tenth thereof, and all the waters of Round Valley Creek, not exceeding three and one-half second feet, and by reason of the amount of water not being stated from said sources, this defendant cannot determine nor ascertain the quantity of water from said sources nor the amount claimed by plaintiff.

(C) That paragraph numbered "29d" of the plaintiff's complaint is uncertain for the reason that it alleges plaintiff is the owner and entitled to the use of secondary or 'Class B' water right in Provo River, to-wit: "The Blue Cliff Canal Right" consisting of nine hundred and sixty, seventeen thousand - nine hundred sixtieths of what is known as 'Class B' water right as set forth and defined in that certain civil action No. 957 tried in the District Court of the Fourth Judicial District, Utah County, State of Utah, wherein Provo City, et al. were plaintiff's and the Telluride Power and Transmission Company et al. were the defendants, and this defendant cannot ascertain nor determine from said allegation whether plaintiff claims said water by virtue of an adjudication of right by said action, by a decree rendered therein, or from what proceedings had in said cause defining the amount claimed by plaintiff.

(D) That paragraph numbered "36" of plaintiff's complaint is uncertain for the reason, that it states "many of the defendants who have a prior right in point of time of appropriations, to the plaintiff's right to the use of the waters of said river, have been year after year continuously during the irrigation season, claiming to have the right to do so, using the water diverted by them wastefully and in quantities largely in excess of that necessary or beneficial for the irrigation of their lands," and it cannot be

ascertained nor determined from said allegation what defendants, nor to what extent plaintiff claims the use of said water has been wasteful or in excess of the amount necessary or beneficial for the irrigation of their lands.

(E) That said complaint of the plaintiff as a whole is uncertain for the reason that plaintiff claims thereby an interest in the water of Provo River, as against the rights of this defendant and it cannot be ascertained from the said complaint what quantity of water plaintiff claims of right nor what quantity of water this defendant is claiming in excess of the rights of this defendant thereby.

E. E. Corfman  
Attorney for Knight Woolen Mills  
defendant

Due and legal service of within demurrer had and received the  
14<sup>th</sup> day of March, 1914.

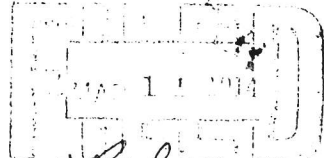
one of the Jacob Evans  
Attorneys for Plaintiff.

Prova Reservoir Co.  
a corporation  
Plaintiff

Prova City et al  
Defendants

Demurrer

FILED IN CASE NO. 11,004



at Robison  
BY C. W. Beach DEPUTY

E. E. Corfman, atty  
for Knight Wooden Mills